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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF: DISAPPEARANCES AND SUMMARY EXECUTIONS

Extrajudicial, summary or arbitrary executions

Report of the Special Rapporteur, Ms. Asma Jahangir, submitted in accordance with Commission resolution 1999/35

Addendum

Mission to the former Yugoslav Republic of Macedonia and Albania

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Introduction

1. The Special Rapporteur conducted a mission to the former Yugoslav Republic of Macedonia from 23 to 25 May, and to Albania from 25 to 28 May 1999. This was the first field mission undertaken by the Special Rapporteur since her appointment in August 1998. The main purpose of the visit was to collect first-hand information as regards the situation in Kosovo, with a view to assessing and evaluating allegations of human rights violations relevant to her mandate reported to have occurred there. The Special Rapporteur wishes to take this opportunity to express her appreciation to the Governments of the former Yugoslav Republic of Macedonia and the Republic of Albania for their assistance in facilitating her mission. She also wishes to thank all the representatives of international agencies, non-governmental organizations and private persons who, despite the urgency of the situation in the region, found time to meet and talk with her during the mission.

2. In the former Yugoslav Republic of Macedonia, the Special Rapporteur was briefed by field staff of the Office of the High Commissioner for Human Rights (OHCHR) in Skopje and also met with officials of the Human Rights Unit of the Organization for Security and Cooperation in Europe (OSCE), the International Criminal Tribunal for the former Yugoslavia (ICTY) and the Office of the United Nations High Commissioner for Refugees (UNHCR). She also held discussions with representatives of non-governmental organizations (NGOs), including Amnesty International and Human Rights Watch. During her stay in the former Yugoslav Republic of Macedonia the Special Rapporteur visited the Cegrane camp, where she had the opportunity to interview a number of refugees who gave testimonies of human rights violations, including extrajudicial killings, they had witnessed before leaving Kosovo. The Special Rapporteur also paid a visit to the border-crossing at Blace, where she spoke with refugees who were awaiting entry into the former Yugoslav Republic of Macedonia. In Skopje the Special Rapporteur also briefly met with Mr. Boris Trajkovski, Deputy Minister for Foreign Affairs.

3. While in Albania, the Special Rapporteur met in Tirana with representatives of UNHCR, ICTY, OSCE, the Council of Europe and the International Committee of the Red Cross. Discussions were also held with local NGOs, which shared their findings based on interviews with refugees. The Special Rapporteur also visited the refugee camp in Mali I Robit, where she had the opportunity to interview refugees who gave accounts of human rights violations they had witnessed. Further testimonies were taken in Rrushbull camp in Durres. In Tirana the Special Rapporteur also met with the Attorney-General of Albania, Mr. Arben Rakipi.

4. The present interim report on the Special Rapporteur's mission to the region is prepared with the intention of providing a brief summary of her findings and impressions from the visit, and is largely based on information gathered by the Special Rapporteur or her staff during the mission. As the Special Rapporteur has had no access either to the people or the areas of the rest of the country, she has found it necessary to limit the scope of the present report to events in and allegations concerning Kosovo.

5. The Special Rapporteur continuously receives information gathered and analysed by field staff of the OHCHR Kosovo Emergency Operation, which is operating in the former Yugoslav Republic of Macedonia, Albania and Montenegro since early April 1999. Reports from the region indicate that summary killings are still being committed and that the situation may even deteriorate further in the near and mid-term future. There are also reports that civilian lives are wilfully and deliberately being put in danger by armed forces on the ground. While the primary focus of attention remains on the tragedy of the Kosovo Albanians forced out of their homes and country, there is an obvious need for more information regarding the situation of other ethnic groups in Kosovo. In order to capture all aspects of these atrocities as well as their scope and magnitude, the Special Rapporteur intends to present a more comprehensive, final report at a later stage when testimonies and information gathered on the ground have been analysed. There is also an urgent need for international monitors, including OHCHR staff, to regain access to Kosovo, so that on-site investigations and verification of alleged atrocities can begin. The Special Rapporteur further plans to conduct an additional mission to the area before submitting her final report to the Commission on Human Rights.

I. OBSERVATIONS

6. While it is clear that more work needs to be done before a full assessment of the situation can be presented, the Special Rapporteur nevertheless feels that some important observations can and need to be presented based on the information gathered so far. They can be summarized as follows.

7. Killings were mostly carried out by forces under direct or indirect State control. The majority of the testimonies narrated directly to the Special Rapporteur identify members of units of the Serbian police, the Yugoslav Army or paramilitary forces as responsible for these crimes. Many of the most atrocious killings reported appear to have been carried out by paramilitary units, operating either in cooperation with or with the direct or tacit approval of police or military forces present at or operating in the vicinity of the scene. It appears that government forces only exceptionally intervened to prevent or stop civilians from being killed Instances in which armed Serb civilians were identified as the perpetrators were also reported, but preliminary observations suggest that in most cases these persons were operating together with or were accompanied by government or paramilitary forces. Testimonies also indicate that the forces responsible for these crimes mostly acted under the direction of a clearly identified commander or leader.

8. The killings were not isolated in any specific area or areas in Kosovo, but occurred everywhere and in a systematic manner. While some of the most violent and massive atrocities appear to have been committed in areas traditionally suspected of harbouring members of the Kosovo Liberation Army (KLA), many locations, particularly in the eastern parts of Kosovo which had for a long time been largely unaffected by violence and destruction, had been affected indiscriminately.

9. Summary executions have taken place in varying circumstances and situations: targeted, indiscriminate, individual and mass killings have been

witnessed and recounted to the Special Rapporteur and her assisting staff. The accounts brought to the Special Rapporteur's notice include reports of direct targeting and killing of activists, lawyers, intellectuals or other well-known personalities. These killings were apparently carried out with the aim of spreading terror among the larger public and depriving the Kosovo Albanian community and political leadership of persons of high moral standing capable of forging alliances and leading society.

10. In this context, the Special Rapporteur wishes to take particular note of the tragic death of Professor Fehmi Agani, a respected intellectual and adviser to Dr. Ibrahim Rugova. Professor Agani was also a member of the Kosovo Albanian delegation at the talks in Rambouillet. Accounts of events immediately prior to the death of Professor Agani indicate that on 6 May he, together with the other passengers, was ordered off a train, which had been sent back to Pristina after the border to the former Yugoslav Republic of Macedonia had been closed at the Blace border-crossing. The police reportedly gathered a group of young men from among the passengers and threatened to execute them. In order to attract the attention of the police and in the hope of stopping the killing from taking place, Professor Agani reportedly stood up and removed the disguise he was wearing in order to avoid capture. After having identified Professor Agani the police did indeed leave the young men in peace. Professor Agani was then taken into a car with civilian licence plates. It appears that uniformed police officers in the car received orders via their radio, and then drove off with Professor Agani to an unknown destination. Despite repeated inquiries, Professor Agani's family was unable to locate him until the following day, when they heard on the radio that his dead body had been found in Lipljan. When Professor Agani's wife went to the hospital morgue in Pristina to identify her husband's body, the director of the morgue confirmed that Professor Agani's dead body had been brought there on 6 May, i.e. the same day he was abducted. While in the former Yugoslav Republic of Macedonia, the Special Rapporteur had the opportunity to meet with and extend her condolences to several members of Professor Agani's family.

11. The Special Rapporteur was also deeply disturbed and saddened to learn of the murder of Mr. Bajram Kelmendi, a prominent Kosovo Albanian human rights lawyer, and his two sons, Kastriot and Kushtim, in late March 1999. It is reported that on 25 March Mr. Kelmendi and his sons were taken from their home in Pristina by the police. The whereabouts of the three men remained unknown, until their dead bodies were found at a petrol station on the road between Pristina and Kosovo Polje the following day.

12. Refugees also described how groups of refugees, including women, children and elderly persons, were indiscriminately fired upon while trying to flee their homes and villages. While visiting a refugee camp in Albania, the Special Rapporteur had the opportunity to speak with a woman refugee from a village close to Suva Reka. According to her testimony, police, army and paramilitary forces entered the village on 25 March. When the villagers tried to flee, police and military reportedly opened fire, indiscriminately killing

seven persons. After the first shootings, the surviving villagers managed to make their way to a nearby stream, but were caught up by the same armed men who again opened fire on the crowd. Another four people were reportedly killed as a result.

13. Some of the most harrowing accounts describe individual, random or group killings in connection with forced expulsion. In some instances individual civilians would be randomly picked out from a crowd and killed on the spot, apparently with the aim of spreading fear among the civilians in order to expedite the process of expulsion. In the Cegrane camp in the former Yugoslav Republic of Macedonia, the Special Rapporteur received the following account from a woman from Glogovac. On 20 April four men dressed in paramilitary uniforms came to the woman's apartment, and ordered the whole family to gather in the living room and to sit down on the floor. The men then demanded that the family surrender all their valuables and foreign currency. While two of the armed men searched the apartment, one of the paramilitaries guarding the family suddenly shot the witness's brother, wounding him seriously. The other armed man then stepped up to the brother and shot him several times in the head. Having found nothing of value in the apartment, the four men left. Despite a heavy military and police presence and ongoing violence in the town, the women of the family managed to take the body of the dead brother to a nearby cemetery, where he was buried without ceremony.

14. In other instances entire extended families, including many women and children and sometimes numbering up to 20 persons, were reportedly wiped out in execution-style killings. Some testimonies describe whole villages being rounded up by police, army or paramilitary forces. In many cases the women and children would be separated from the men and then ordered to flee, while many of the men would be lined up and summarily executed. Other accounts indicate that in some instances police, military or paramilitary forces would order groups of refugees to run for their lives, and then open fire on the fleeing refugees. A man from a village close to Lipljan told the Special Rapporteur how his family, together with others, were surrounded by paramilitary forces in a valley while they were attempting to flee the area. When the displaced villagers tried to make their way out, the paramilitaries reportedly opened fire, killing several people. A group of paramilitaries then came up to the villagers and demanded that they surrender all their money and valuables. One of the villagers, a young man, managed to run away into the woods. Two others were immediately shot dead as a reprisal. The paramilitaries then separated the men from the women and children, who were told to leave. A car was parked in front of the remaining group of around 100 men and two machine guns were mounted on its roof. The men were told to run towards the surrounding forest, whereupon the paramilitaries reportedly opened fire with the two machine guns. The witness believes that he is one of the few survivors of the massacre.

15. Killings were in many instances carried out in an extremely cruel and degrading manner. The Special Rapporteur heard several testimonies, supported by other independent accounts, describing how victims were seriously ill-treated, humiliated and in some cases mutilated before being killed. Not

even dead bodies were spared this anger and hatred. There are also a number of accounts of corpses being burned, in apparent attempts to destroy evidence of atrocities. Accounts given to the Special Rapporteur and OHCHR staff also describe mass graves, including their location.

16. It is evident from the testimonies given by the victims and witnesses that the driving force behind their forcible expulsion was the urge to take revenge for NATO action, coupled with ethnic hatred which was openly expressed.

17. In this context of violence and cruelty, the Special Rapporteur wishes to note that regardless of the atrocities committed and the bleak and inhuman atmosphere described in numerous accounts and testimonies, there have been some remarkable acts of integrity, courage and compassion on the part of persons who at great personal risk have attempted to assist or rescue victims of human rights abuses. The Special Rapporteur is deeply impressed by the courage and integrity shown by persons such as Professor Agani, who were ready to expose themselves to great risks in order to save others. The Special Rapporteur also heard accounts describing instances in which groups of women refugees managed to save their male relatives or even strangers by helping them to hide in their convoy. Some of the refugees interviewed also told the Special Rapporteur how soldiers, usually young conscripts, and in some instances individual police officers tried to stop others from attacking or committing atrocities against the civilian population. In some instances it appears that police officers told particularly exposed persons to flee, as that was the only way of saving their lives. These acts of integrity give hope, even in the face of the worst forms of human behaviour.

II. RECOMMENDATIONS

18. The enormity of the situation is daunting, and any general recommendations may sound out of place and trivial at this stage of the conflict. It is obvious that the authorities of the Federal Republic of Yugoslavia and the Republic of Serbia must be called upon to put an immediate end to killings and violence in Kosovo. It is equally clear that international monitors, including OHCHR, and the media must be allowed to regain access to Kosovo for further investigations into alleged abuses and to expose the full reality of the situation to the international community.

19. There can be no impunity for crimes such as those reportedly committed in Kosovo. Investigation and prosecution of those directly responsible for such systematic and calculated killings need to be carried out both at the international and national levels. The Special Rapporteur, therefore, encourages the International Criminal Tribunal to continue its investigations with a view to bringing perpetrators of grave violations of human rights and humanitarian law to justice. All legal processes initiated in the prevailing atmosphere of outrage and hostility must also be seen to be totally independent and must scrupulously follow all relevant standards pertaining to due process of law.

20. A greater challenge is ahead for the international community in relation to the Kosovo crisis. Firstly, the vicious circle of reprisals must be brought to an end. Secondly, confidence between ethnic groups, which has been

so brutally abused, must be rebuilt. Thirdly, civil society must be rebuilt and the norms of responsible citizenry have to be instilled into a scarred and traumatized society. An even greater challenge is to ensure that violations of human rights of the scale witnessed in Kosovo are not repeated. Lessons learned from the Kosovo crisis deserve heightened debate, while some key issues remain unresolved and require mature consideration and resolution. Among the questions to be answered are the following:

(a) How and when should the international community respond to early warning signs of crisis?

(b) In the absence of any collective action by the international community in regard to unfolding human tragedies and atrocities, can any action be permitted to be taken unilaterally by another State or alliances of States? If so, how should such humanitarian intervention be legitimized, keeping in mind the appropriateness, proportionality and circumstances of the situation?

These are some of the matters and concerns the Special Rapporteur intends to explore and discuss further in her coming report.